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August 31, 2015

Filed electronically Via ECFS

Marlene H. Dortch
Office of Secretary
Federal Communications Commission
445 Fifth Street, SW, Suite TW-A325
Washington, DC 20554

Re: In the Matter of Lifeline and Link Up Reform and Modernization, WC
Docket No. 11-42, et al.

Dear Ms. Dortch:

The New York State Public Service Commission (NYPSC) submits these comments in response to the Federal Communications Commission's (FCC) Further Notice of Proposed Rulemaking (FNPRM) in the above docket.¹ The NYPSC concurs regarding the great boon the Lifeline program has been in furthering the goal of universal service. The NYPSC also recognizes the need to expand the offerings supported by the Lifeline program to include broadband, in order to facilitate the inclusion of low income participants in the digital society that we have become.

Universal service is the principle that all Americans should have access to communications services. Lifeline advances this goal by ensuring that all customers, regardless of their location, have comparable access to telecommunication services at reasonable rates. Broadband has become an essential communication method with regard to education (homework

¹ The views expressed herein are not intended to represent those of any individual member of the NYPSC. Pursuant to the New York Public Service Law (PSL) §12, the Chair is authorized to file comments on behalf of the NYPSC.

and portals), and is fast becoming a requirement for daily tasks related to employment, banking, health, and, additionally, has cross utility impact.² The NYPSC supports the universal service goal and agrees that the list of essential services funded under the federal Universal Service Fund (USF) should be expanded to include broadband. However, this expansion of supported services must be done in a fiscally responsible way that balances the needs of the low income consumers, the States' consumers that fund the program via surcharges, and the economic viability of service providers.

Expanding USF services to include broadband is only one piece of a solution to a complex problem. The proposed Lifeline expansion to include broadband may be beneficial as part of a more comprehensive strategy undertaken by the federal government (e.g. ConnectHome),³ and states such as New York,⁴ to expand the reach of broadband. The NYPSC recognizes that including broadband in the Lifeline program will provide a subsidy for the broadband line connection only, and will not address the sometimes substantial durable equipment investment necessary to take advantage of broadband connections. This is in contrast to traditional telephone service, where the equipment needed is often minimal and therefore affordable even for low income customers. It is hoped that these reforms could be one more stepping stone on the path that allows more Americans to achieve a full, 21st century connection with the world and each other.

² For example, Governor Cuomo's Reforming the Energy Vision (REV) program, which aims to spur clean energy innovation, recognizes the benefits of consumers utilizing broadband access to manage their energy consumption and unleashing the system benefits of integrating distributed energy response into the electric system.

³ Fact Sheet: ConnectHome: Coming Together to Ensure Digital Opportunity for All Americans, WhiteHouse.gov (July 15, 2015), available at <https://www.whitehouse.gov/the-press-office/2015/07/15/fact-sheet-connecthome-coming-together-ensure-digital-opportunity-all>.

⁴ 2015 Opportunity Agenda: Restoring Economic Opportunity (January 5, 2015), available at <https://www.governor.ny.gov/news/2015-opportunity-agenda-restoring-economic-opportunity-1>.

Financial Requirements

While the NYPSC strongly supports the proposed expansion of the USF to meet the needs of low income consumers in the 21st century, the FCC must consider fiscal realities as it introduces more supported services and more eligible participants into the program. New York's consumers pay more into the USF overall than is received by New York participants in all of the supported programs under the auspices of the USF (of which Lifeline is one). If the FCC expands the supported services to include broadband, it would certainly be warranted to increase the total amount expended on the Lifeline program over the current expenditures for the Lifeline and LinkUp programs to support the laudable goal of bridging the digital divide. However, the FCC should ensure that the cost of Lifeline funding does not balloon to the extent that it imposes an unfair burden on the overall body of consumers who ultimately pay for the Lifeline subsidies via bill surcharges. To protect New York State's consumers against unreasonably large bill surcharges (the current surcharge is 17%), the NYPSC supports an annual cost cap on the Lifeline program. This would be similar to the approach taken by the FCC when it created the Connect America Fund (CAF) and capped the High Cost program at December 2011 levels (\$4.5B per year).⁵

While the NYPSC realizes that levying surcharges on broadband access is controversial, as the fund is modified to support broadband adoption, it is becoming harder and harder to justify the current regime where only voice customers contribute to the federal USF. Consumers in New York and elsewhere are increasingly opting for over-the-top broadband voice applications that are provided by companies whose customers do not contribute to the USF, while the number of customers who subscribe to wireline copper based services, who do contribute to the federal USF via surcharges,⁶ continues to decline. A shrinking contribution base (as consumers use their broadband connections for voice service) puts more fiscal pressure

⁵ Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, Report and Order and Further Notice of Proposed Rulemaking, (November 18, 2011).

⁶ Wireless voice customers also contribute to the USF.

on those that do contribute.⁷ By expanding the pool of services eligible for subsidization while drawing revenues from an ever shrinking base of lines, the financial health of the fund could be threatened. The NYPSC suggests the FCC adopt a technology agnostic approach to program funding, with all Title II service customers contributing to support Universal Service programs, including Lifeline. The FCC must look carefully at possible funding requirements and opportunities before making any change to Lifeline benefits or any other USF program.

Some Lifeline advocates argue that Lifeline support is a “bridge service,” meaning that as Lifeline customers’ circumstances change they will no longer need this kind of helping hand. The reality is that a segment of supported consumers will always need the subsidy. Some people, due to a variety of circumstances (age, illness, disability, chronic unemployment), may need long term or even permanent support to obtain the telecommunications services that have been identified as necessary in our modern world. Putting a time limit on the benefit (e.g., like the welfare time limits) as had been suggested by some, negates this reality, and we oppose this suggestion.

Although it is understandable to want to give low income consumers a full subsidy for higher end, more robust services, this inclination has to be balanced with fiscal restraint as the cost for a full subsidization of high end services could be cost prohibitive. The NYPSC believes that a standalone, low cost service requiring no or minimal contribution by the consumer should be an option available to low income customers. This low-cost standalone service could be a voice only service (wireline or wireless), but the heightened necessity of broadband in our society suggests that it could also be a broadband offering which can be used for voice. The NYPSC strongly believes that both a standalone voice offering and a standalone broadband offering should qualify for and be made available under the Lifeline program. However, consumers should be allowed to use their Lifeline subsidies to subsidize whatever service or services meet their needs.⁸ Households with children in school may place greater value on obtaining a wired broadband connection to the home to support educational needs.

⁷ Moreover, the incremental cost of providing Voice over Internet Protocol (VoIP) based voice service, once broadband is already subscribed to, is zero. Thus, questions regarding the subsidization of telephone service become moot as funding is redirected toward the access to broadband that consumer increasingly need assistance in obtaining.

⁸ As mentioned below, the NYPSC believes that the Lifeline program must continue to limit the number of supported connections to one per household.

They could then use the broadband connection to obtain no or low cost voice service. For more robust service offerings, although not completely compensatory, the subsidy should be applicable to the more robust services the consumer chooses. Consumers' needs are varied and allowing the subsidy to be applied to either a standalone offering or to more robust offerings would allow consumers to exercise their choice and preferences, while keeping the program affordable and economically viable for providers.

Lifeline Application Reforms

The NYPSC applauds the gains in efficiencies and waste reduction the FCC has already achieved and concurs with additional reforms such as a third-party verification system for determining eligibility for Lifeline benefits. Any such federal system should not preclude states from continuing their own third-party verification systems. The states and the federal government have had a long term, beneficial partnership in overseeing the provision of Lifeline services and ensuring universal service for all. There is no valid reason for federal preemption of sufficiently rigorous state verification programs. The states and the FCC can and should continue to work together on determining Lifeline eligibility in much the same way they jointly administer Eligible Telecommunications Company (ETC) certification.

The FCC's efforts to streamline the Lifeline application process are laudable, as they remove impediments to eligible recipients obtaining access to needed communication services. The NYPSC supports the goal of ensuring that low income households with children are eligible for the Lifeline program, by correlating with participation in free or reduced lunch program participation (National School Lunch Program/NSLP); this is particularly apt regarding broadband services that would support educational and health objectives. Coordinated enrollment with other state and federal assistance gateway/tied programs, (e.g., programs like New York's Heating and Energy Assistance Program) could streamline the Lifeline application process and ensure that eligible recipients can receive benefits efficiently. Collaborations with low income (through Department of Social Services, WIC), or aging and disability programs could also increase participation in the Lifeline program; such collaborations have promise for increasing the awareness of Lifeline among potential eligible consumers as well. The NYPSC does not support a geographic community eligibility option for Lifeline under which no individual eligibility data is necessary. While such an option would reduce the burden on

applicants, it would also increase the likelihood of fraudulent applications and the eligibility designation could reflect negatively on communities.

Lifeline Subscriber Recertification

The Lifeline recertification program has been fraught with problems, the most prevalent of which has been the inability of current Lifeline customers to complete their annual recertification, despite providing required documentation. Customers have received letters stating that their identity could not be verified despite providing multiple pieces of valid identification. Thousands of customers have been unable to break through bureaucratic barriers to recertify for a service for which they are eligible, resulting in unnecessary disruption of service and financial hardship.

In New York's experience, the National Lifeline Accountability Database (NLAD) has failed to provide accurate, timely resolution of customer problems and, therefore, the recertification process must be fundamentally restructured to ensure that eligible customers do not lose service. Improvements to the recertification process are needed in order to make it clearer and simpler. These include: 1) enhanced outreach and education to provide information regarding the annual recertification process; 2) reminder letters that indicate recertification deadlines and outline the steps necessary to recertify, with simple, easy to understand directions; 3) standardized forms which include a subscriber execution date and a contact phone number that the customer can call for assistance; 4) clear and timely notification by letter and email for customers who have failed to recertify, providing them with the opportunity to complete the recertification process before they are removed from the program; and 5) flexibility in the documentation required to recertify. All correspondence to customers should either be provided in a language that the customer understands, or simple instructions for obtaining documents in a specific language should be provided.

Up until now, the NLAD has failed to provide sufficient support to customers; instead it has been relying on service providers and state regulators to solve recertification and eligibility issues that are inherently NLAD's responsibility. NLAD's reliance on web-based communications has resulted in deficiencies in determining eligibility and resolving customer problems. The NYPSC recommends that support services include dedicated phone support at each of the ETCs and the NLAD itself for customers recertifying, as well as those agencies and

organizations providing assistance to these customers. The NLAD must prioritize the establishment of a transparent, unambiguous process to accurately evaluate the identity of Lifeline service verifiers and for the submission of recertification applications. The primary goal should be the timely resolution of eligibility issues and to avoid interruption of essential service to low income customers.

Supported Services and Minimum Requirements

In order to maintain fiscal integrity, the Lifeline program must continue to limit the number of supported connections to one per household, even if the program expands subsidized service to include broadband services.⁹ The NYPSC shares the FCC's hope and expectation that the industry can create economic offerings that combine voice and broadband services for the current federal subsidy of \$9.25 per month (which is supplemented in some places, like New York, by state funding).

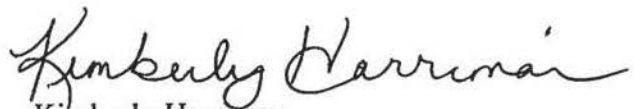
The FCC requested comments on specific standards applicable to wireline and wireless voice and broadband services to be supported under the USF. We believe that setting minimum service standards for subsidized services could actually restrict the offerings available to low income consumers. The NYPSC is concerned that carriers will determine that it is not economically viable to meet evolving minimum requirements for Lifeline subsidized services and decide to remove those services from the market. We urge the FCC to maintain as much competitive choice as possible by not restricting the product offerings available to low income customers via the imposition of minimum standards. Low income consumers should benefit from the kind of options and choice that is available to the general body of consumers.

⁹ While the NYPSC is technology agnostic, one advantage of funding VoIP based services is that only one broadband subscription per household is necessary to support multiple connections to the public switch telephone network.

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In sum, the NYPSC supports many of the FCC's proposed reforms which would allow the expansion of supported services under the Lifeline program, but also increase efficiencies and address the spectrum of consumer preferences. The NYPSC believes that the current state and federal partnership of administering this important program should continue. Working together, we can address the issues of the digital divide and ensure the safety and welfare of the nation's citizenry.

Respectfully submitted,

A handwritten signature in black ink, reading "Kimberly Harriman". The signature is fluid and cursive, with the first name "Kimberly" written in a larger, more prominent script than the last name "Harriman".

Kimberly Harriman
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